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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,553	02/27/2006	Dario Rea	02334900316	7752
4372	7590	10/17/2007		
ARENT FOX LLP 1050 CONNECTICUT AVENUE, N.W. SUITE 400 WASHINGTON, DC 20036			EXAMINER LOW, LINDSAY M	
			ART UNIT 3721	PAPER NUMBER
			NOTIFICATION DATE 10/17/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com
IPMatters@arentfox.com
Patent_Mail@arentfox.com

Office Action Summary	Application No. 10/569,553	Applicant(s) REA ET AL.	
	Examiner Lindsay M. Low	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's amendment received on July 16th, 2007.

Information Disclosure Statement

2. It should be noted that although Applicant states that an English translation of DE 844569 and a legible copy of GB 520,686 have been submitted, there does not appear to be a copy of either reference on record. Therefore, the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Konig et al (5,441,342) for the same reasons stated in paragraph 10 of the previous office action mailed December 5th, 2006.
5. Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Konig (5,441,342).

It should be noted that second crank 113 does act coaxially on the piston, especially when it is pivoted into the longitudinal axis of the dosing cell in order to move the piston. It should also be noted that the fact that the piston moves longitudinally

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within the dosing cell means that the piston moves in a direction that is "perfectly aligned" with its longitudinal axis. Regarding the connecting rod being fork-shaped, note that the connecting rod 114 is "divided into branches" (as defined by the Applicant in the arguments) at the point where a first pin is inserted through the respective hole to connect the connecting rod to the second crank.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romagnoli (4,870,808) in view of Konig et al., (5,486,048) for the same reasons set forth in paragraph 12 of the previous office action, *supra*.

8. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romagnoli (4,870,808) in view of Konig et al., (5,486,048).

It should be noted that Romagnoli's modified second crank 113 does act coaxially on the piston, especially when it is pivoted into the longitudinal axis of the dosing cell in order to move the piston. It should also be noted that the fact that the piston moves longitudinally within the dosing cell shows that the piston moves in a direction that is "perfectly aligned" with its longitudinal axis. Regarding the connecting rod being fork-shaped, note that the connecting rod 114 is "divided into branches" (as

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defined by the Applicant in the arguments) at the point where a first pin is inserted through the respective hole to connect the connecting rod to the second crank.

Response to Arguments

9. Applicant's arguments have been fully considered but have not been found persuasive.

Applicant contends that the fact that the conveyor would be capable of supporting a web for packaging purposes is not sufficient for asserting that Konig shows a web of filter material. However, it should be noted that Applicant's claims are not restrictive to a device that must use a web of filter material to operate. The web of filter material is merely used as an attempt to define a location of the "rotary drum conveyor means." Regarding Konig, the conveyor 40 is capable of supporting a web of filter material for packaging purposes. Therefore, the location of the web material in Konig's device would be located such that the rotary drum would be between it and the hopper.

Applicant contends that Konig's device is not used for an infusion product and that Konig's device could not work if used with an infusion product. However, while the device may not be specifically designed and intended for infusion products, as defined by Applicant, there is no structural distinction between the reference and the claimed invention. That is, the reference clearly shows a rotary drum, a hopper, radial dosing cells, a piston, cam actuating means, first and second crank mechanisms, connecting rod, a transmission shaft, etc. Furthermore, while the device may not perform optimally when handling infusion products, it is deemed capable of handling such items. In

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addition, given the broadest reasonable interpretation of the term "infusion products," the dough material is deemed such a product as it is infused with other ingredients to form "dough."

Applicant contends that Konig's crank mechanisms are not able to enable the pistons to move in a direction that is perfectly aligned with a longitudinal axis of the dosing cell. However, as stated above, the fact that the piston moves longitudinally within the dosing cell shows that the piston moves in a direction that is "perfectly aligned" with its longitudinal axis. In other words, as shaft 111 rotates, second crank 113 is pivoted into the longitudinal axis of the dosing cell, thus moving the piston in a longitudinal direction that is "perfectly aligned" with the dosing cell longitudinal axis. Furthermore, connecting rod 114 is formed such that it works as a hinge between the second crank and the piston ((col. 9 lines 31-32). Therefore, a "bending or flexion action" is not acting on the connecting rod 114, as it is pivoted by second crank 113, thereby aiding in the sliding motion of the piston instead of causing a problem as stated by Applicant.

Applicant contends that one of ordinary skill in the art would not consider Konig for seeking a crank mechanism because of the different properties between dough and infusion products and that the crank mechanism of Konig would not work because it is not designed for infusion products. However, Konig's device is used for dosing a product. While the device may not perform optimally when handling infusion products, it is deemed capable of handling such items. It should be noted that Romagnoli's device does use a cam mechanism with piston elements (col. 2 lines 50-51). While Romagnoli

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is silent about the exact configuration of the cam mechanism, it would have been obvious to one of ordinary skill in the art at the time of the invention to consider a cam mechanism with cranks as taught by Konig for the purpose of properly dispensing infusion product.

Regarding new claim 7, Applicant contends that Konig does not disclose a fork-shaped end of the connecting rod to hold the connecting rod on both sides. In addition, Applicant contends that Konig does not disclose the connecting rod being coupled with the second crank through a first pin that passes through a respective hole made in the fork-shaped end. However, as stated above, note that the connecting rod 114 is "divided into branches" (as defined by the Applicant in the arguments) at the point where a first pin is inserted through the respective hole to connect the connecting rod to the second crank. Therefore, the connecting rod 114 is coupled to the second crank via a pin and is "fork-shaped" in order to create the respective hole.

For the reasons above, the grounds of rejection are deemed proper.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsay M. Low whose telephone number is 571-272-1196. The examiner can normally be reached on Monday thru Friday 7:30 to 5:00.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Rinaldi I. Rada
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LML
10/1/2007